

§ 1710.3

bulk transmission and subtransmission facilities.

Urban area is defined by the Bureau of the Census as an area comprising all territory, population, and housing units in urbanized areas and in places of 2500 or more persons outside urbanized areas. More specifically, “urban” consists of territory, persons, and housing units in:

(i) Places of 2500 or more persons incorporated as cities, villages, boroughs (except in Alaska and New York), and towns (except in the six New England States, New York, and Wisconsin), but excluding the rural portions of “extended cities.”

(ii) Census designated places of 2500 or more persons.

(iii) Other territory, incorporated or unincorporated, included in urbanized areas.

Urbanized area means an urbanized area as defined by the Bureau of the Census in notices published periodically in the FEDERAL REGISTER. Generally an urbanized area is characterized as an area that comprises a place and the adjacent densely settled territory that together have a minimum population of 50,000 people.

(b) *Rules of Construction.* Unless the context otherwise indicates, “includes” and “including” are not limiting, and “or” is not exclusive. The terms defined in paragraph (a) of this part include the plural as well as the singular, and the singular as well as the plural.

[57 FR 1053, Jan. 9, 1992; 57 FR 4513, Feb. 5, 1992, as amended at 58 FR 66263, Dec. 20, 1993; 59 FR 495, Jan. 4, 1994; 59 FR 66440, Dec. 27, 1994; 60 FR 3730, Jan. 19, 1995; 60 FR 67400, Dec. 29, 1995; 65 FR 14786, Mar. 20, 2000]

§ 1710.3 Form and bulletin revisions.

References in this part to RUS or REA forms or line numbers in RUS or REA forms are based on RUS or REA Form 7 and Form 12 dated December 1992, unless otherwise indicated. These references will apply to corresponding information in future versions of the forms. The terms “RUS form”, “RUS standard form”, “RUS specification”, and “RUS bulletin” have the same meanings as the terms “REA form”, “REA standard form”, “REA specifica-

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tion”, and “REA bulletin”, respectively, unless otherwise indicated.

[59 FR 66440, Dec. 27, 1994]

§ 1710.4 Exception authority.

Consistent with the RE Act and other applicable laws, the Administrator may waive or reduce any requirement imposed by this part or other RUS regulations on an electric borrower, or a lender whose loan is guaranteed by RUS, if the Administrator determines that imposition of the requirement would adversely affect the Government’s financial interest.

§ 1710.5 Availability of forms.

Information about the availability of RUS forms and publications cited in this part is available from Administrative Services Division, Rural Utilities Service, United States Department of Agriculture, Washington, DC 20250–1500. These RUS forms and publications may be reproduced.

§ 1710.6 Applicability of certain provisions to completed loan applications.

(a) Certain new or revised policies and requirements set forth in this part, which are listed in this paragraph, shall not apply to a pending loan application that has been determined by RUS to be complete as of January 9, 1992, the date of publication of such policies and requirements in the FEDERAL REGISTER. This exception does not apply to loan applications received after said date, nor to incomplete applications pending as of said date. This exception applies only to the following provisions:

(1) Paragraph 1710.115(b)—with respect to limiting loan maturities to the expected useful life of the facilities financed;

(2) Section 1710.116—with respect to the requirement to develop and follow an equity development plan;

(3) Paragraph 1710.151(f)—with respect to the borrower providing satisfactory evidence that a state regulatory authority will allow the facilities to be included in the rate base or otherwise allow sufficient revenues to repay the loan;

(4) Paragraphs 1710.250(b), 1710.251(a), and 1710.252(a)—with respect to the requirement that improvements, replacements, and retirements of generation plant be included in a Construction Work Plan; and

(5) Paragraph 1710.300(d)(5)—with respect to the requirement that a borrower's financial forecast include a sensitivity analysis of a reasonable range of assumptions for each of the major variables in the forecast.

(b) Certain provisions of this part apply only to loans made on or after February 10, 1992. These provisions are identified in the individual sections of this part.

[57 FR 1053, Jan. 9, 1992; 57 FR 4513, Feb. 5, 1992, as amended at 58 FR 66263, Dec. 20, 1993]

§ 1710.7 Exemptions of RUS operational controls under section 306E of the RE Act.

(a) *General policy.* (1) Section 306E of the RE Act directs the Administrator to issue interim final regulations to minimize approval rights, requirements, restrictions, and prohibitions imposed on the operations of electric borrowers whose net worth exceeds 110 percent of the outstanding loans made or guaranteed to the borrower by RUS. The section also directs the Administrator, when requested by a private lender providing financing for capital investments by such borrowers, to offer, without delay, to share the government's lien on the borrowers' systems or subordinate the government's lien on the property financed by the private lender.

(2) In issuing the regulations, the Administrator is authorized to establish requirements, guided by the practices of private lenders with respect to similar credit risks, to ensure that the security, including the assurance of repayment, for loans made or guaranteed by RUS will remain reasonably adequate. If the regulations are not issued within 180 days of enactment of section 306E, the Administrator may not, until the regulations are issued, require prior approval of, or establish any requirement, restriction, or prohibition, with respect to the operations of any electric borrower that meets the 110 percent ratio.

(3) Nothing in section 306E limits the authority of the Administrator to establish terms and conditions on the use of funds from loans made or guaranteed by RUS, to establish loan feasibility criteria and other requirements for the approval of RUS loans or loan guarantees, such as those set forth in this part, or to take any other action specifically authorized by law.

(4) This section addresses the application of section 306E of the RE Act to RUS operational controls and other requirements that apply in general to RUS borrowers. The application of section 306E to lien accommodations and subordinations is set forth in 7 CFR 1717.860 and 1717.904.

(5) The exemptions granted by this section, 7 CFR 1717.860, and 7 CFR 1717.904 apply only to RUS controls and approval rights. They do not affect the controls and approval rights of other co-mortgagees under the RUS mortgage.

(6) For purposes of this section, the terms "default," "financed or funded by RUS," "interchange agreement," "interconnection agreement," "loan documents," "pooling agreement," "power supply contract," and "wheeling agreement" have the meanings as set forth in 7 CFR 1717.602.

(b) *Determination of ratio.* The following principles and procedures will apply to the calculation of net worth as a ratio, expressed as a percent, to the outstanding balance of all loans made or guaranteed to the borrower by RUS, hereinafter called the borrower's "net worth to RUS debt ratio", or simply "the ratio":

(1) For purposes of determining whether a borrower is exempt from approvals, requirements, restrictions, or prohibitions imposed by RUS with respect to borrower operations, i.e., "operational controls," the ratio normally will be based on data as of December 31. Net worth will be based on the year-end financial and statistical reports submitted by borrowers to RUS, and outstanding loans made or guaranteed by RUS will be based on RUS's records. The financial and statistical reports (Form 7 for distribution